

Resolution ICC-ASP/21/Res.4

Adopted at the 9th plenary meeting, on 9 December 2022, by consensus

ICC-ASP/21/Res.4

Review of the International Criminal Court and the Rome Statute system

The Assembly of States Parties,

Recognizing the Court's central role and achievements in the fight against impunity at the international level, as the only permanent International Criminal Court, based on the principle of complementarity,

Reiterating the need for continuous improvement in the performance, efficiency and effectiveness of the Court's operations and *welcoming* the Court's efforts in this respect,

Recalling its resolutions ICC-ASP/18/Res.7 of 6 December 2019, ICC-ASP/19/Res.7 of 18 December 2020 and ICC-ASP/20/Res.3 of 9 December 2021, and reiterating its commitment to a transparent, inclusive State-Party driven process for identifying and implementing measures to strengthen the Court and improve its performance, and underlining that, for such a process to be successful, it must involve all States Parties, the Court and other relevant stakeholders,

Welcoming the willingness of the Independent Experts to assist with the continuing review process in providing additional background information on their findings and recommendations, as appropriate and feasible,

Taking note of the continued active consideration by the Court or in the Bureau working groups, facilitations and other forums (hereinafter "Assembly mandates" or "mandate holders") of the issues identified by the Group of Independent Experts, with the participation of and input from other stakeholders, *emphasizing* that such work should continue with a focus on implementation, as appropriate, and should be coordinated with the larger review process with a view to avoid duplication and benefit from synergies,

Welcoming the ongoing engagement of the Court and its focal points in the planning, coordinating, monitoring, and reporting on the assessment and implementation of the positively assessed recommendations contained in the Report of the Group of Independent Experts,

Stressing the statutory mandates of the organs of the Court and of the Assembly of States Parties and that these independent mandates should inform the assessment of the recommendations of the Group of Independent Experts and possible further action, as appropriate, by the Court, the Assembly, or both depending on the nature and purpose of the individual recommendations, and the entity identified as responsible for implementation,

Encouraging the continued engagement of States Parties, the Court and other relevant stakeholders in an efficient and results oriented manner in the review process,

Acknowledging the importance of the Bureau's decision of 31 May 2021 that welcomed the efforts of the Review Mechanism to be inclusive and transparent in the exercise of its mandate within this State Party-driven process, as well as its reassurance that States Parties will be involved in the discussions on assessment and implementation of recommendations, regardless of whether they have been allocated to the Court or to the Assembly, with respect for existing mandates as well as judicial and prosecutorial independence; and decided to adopt the "Categorization of recommendations and remaining issues", dated 30 April 2021, submitted by the Review Mechanism in accordance with paragraph 4 (a) of Assembly resolution ICC-ASP/19/Res.7,

1. *Welcomes again* the report and recommendations of the Independent Expert Review contained in the document titled "Independent Expert Review of the International Criminal Court and the Rome Statute System - Final Report",¹ dated 30 September 2020, and *takes*

¹ https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP19/ICC-ASP-19-16-ENG-IER-Report-9nov20-1800.pdf

note of the diverse, thorough and extensive nature of the Experts' recommendations and the need to address them in a structured, holistic and results-oriented way, and of annex I of the final report identifying a number of proposed priorities;

2. *Also welcomes* the work of the Court, the Review Mechanism, the Bureau working groups, and Assembly mandate-holders on the review process and *takes note with appreciation* of the significant progress that has been achieved in assessing and taking further action on the recommendations of the Independent Experts, and resolves to spare no effort in advancing this work further in line with the Comprehensive Action Plan;²

3. *Takes note again* of the overall response of the Court³ to the report of the Independent Expert Review submitted pursuant to resolution ICC-ASP/19/Res.7;

4. *Underlines* the need to continuously observe and safeguard the judicial and prosecutorial independence of the Court and the integrity of the Rome Statute throughout the review process as well as the need to ensure proper management oversight, good governance and administrative accountability throughout the prosecutorial and judicial activities, and to continuously take into account the mandate identified by the Independent Experts for each of the recommendations in the review process;

5. *Decides* to extend, to the twenty-second session of the Assembly, the mandate of the Review Mechanism established by resolution ICC-ASP/19/Res.7 under the auspices of the Assembly, led by two State Party Representatives and supported by three *ad country* focal points, dedicated to planning, coordinating, keeping track and regularly reporting to the Assembly Presidency and the Bureau on the assessment of the recommendations contained in the Report of the Group of Independent Experts and further action, as appropriate, as well as the issues referenced in resolution ICC-ASP/18/Res.7, paragraphs 18 and 19, and in general in accordance with that resolution. In the event of a vacancy, the Bureau shall, without delay, appoint a member of the Review Mechanism, in the same manner as set out in resolution ICC-ASP/19/Res.7, paragraph 4;

6. The Review Mechanism shall specifically continue to coordinate the assessment of the recommendations, and continue to serve as a platform for assessment of recommendations in conformity with the comprehensive action plan, as well as monitor further action and implementation, as appropriate, of the assessed recommendations;

7. *Welcomes again* the Bureau's adoption of the categorization of recommendations⁴ and the Comprehensive action plan⁵ referred to in operative paragraph 4 of resolution ICC-ASP/19/Res.7, based on the proposals of the Review Mechanism;

8. *Recognizes* that the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations, including the Review Mechanism, commenced assessment of the recommendations in 2021 and have been continuing it in 2022, and submitted to the Bureau the outcome of their consideration, including on action already taken, as well as proposals for the next steps;⁶

9. *Endorses* the positive assessment of recommendation R105 (Tenure) for which the Review Mechanism served as the platform for assessment, and *invites* the Court through the Registry, in close consultation with the Bureau, to develop a detailed proposal for a tenure policy addressing also the financial implications, for its introduction as of 1 January 2024 for approval by the Assembly at its twenty-second session;

10. *Requests* the relevant Assembly mandates designated as responsible for assessing and taking possible further action as appropriate on relevant recommendations to continue with the assessment and, where appropriate, implementation in 2023 and to submit to the Bureau the outcome of its consideration, including on action already taken and proposals for next steps, by 15 November 2023;

² https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/RM-Comprehensive%20Action%20Plan-ENG.pdf

³ https://asp.icc-cpi.int/iccdocs/asp_docs/ASP20/Overall%20Response%20of%20the%20ICC%20to%20the%20IER%20Final%20Report%20-%20ENG%20-%202014April21.pdf

⁴ https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/categorization-recommendations.aspx

⁵ https://asp.icc-cpi.int/EN_Menu/asp/review-court/pages/action-plan.aspx

⁶ See: Report of the Review Mechanism submitted pursuant to ICC-ASP/20/Res.3, annex I.

11. *Requests* the Court through its focal points to provide regular updates to the Review Mechanism on progress achieved, including on any impediments to progress identified, and to evaluate the progress in the assessment, possible further action, and, where appropriate, implementation of the recommendations of the Group of Independent Experts, and report to the Assembly ahead of its twenty-second session;

12. *Requests* the Review Mechanism, in close coordination with the Court focal points and relevant Assembly mandates, to provide regular updates to all States Parties through the Bureau Working Groups, on the review process including on any impediments to progress identified, to brief the Assembly in writing on the overall progress of its work, before 30 June 2023, and to submit a comprehensive report on the review process to the Assembly well in advance of its twenty-second session on:

- a) Progress in the assessment of and possible further action on the recommendations of the Independent Experts and measures for the implementation of the review process;
- b) Progress in the work of the relevant Assembly mandates on the issues referenced in resolution ICC-ASP/18/Res.7, paragraphs 18 and 19; and
- c) Any other progress in the review process;

13. *Invites* the Secretariat of the Assembly of States Parties to assist the work of the Review Mechanism and *requests* the Bureau to invite the Registrar to consider making available to the Secretariat the necessary additional resources, to support the Review Mechanism, on its request, and within the existing budget, only when the Bureau is satisfied that the work of the Review Mechanism so requires; and

14. *Underlines* that the Review Mechanism shall work in an inclusive and transparent manner, consulting regularly with all States Parties, the three organs of the Court, civil society and other relevant stakeholders.
